

106TH CONGRESS  
1ST SESSION

# H. R. 2269

To prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 1999

Ms. MCKINNEY (for herself, Mr. ROHRABACHER, Mr. LEACH, Ms. RIVERS, Mr. PASCRELL, Mr. BONIOR, Mr. MEEHAN, Mr. MCGOVERN, Mr. GEORGE MILLER of California, Mr. PORTER, Mrs. CAPPS, Mr. FRANK of Massachusetts, Mr. WEINER, Mr. UNDERWOOD, Mrs. MINK of Hawaii, Ms. SLAUGHTER, Mr. MARKEY, Mr. WAXMAN, Mr. CONYERS, Mr. BARRETT of Wisconsin, Mr. DIXON, Mr. STARK, Mr. BROWN of Ohio, Mrs. MORELLA, Mr. WYNN, Mr. LANTOS, Ms. WOOLSEY, Mr. NADLER, Mr. TIERNEY, Mr. CAMPBELL, Mr. ALLEN, Mr. MOAKLEY, Mr. LUTHER, Mr. FARR of California, Mr. ENGEL, Mr. ABERCROMBIE, Mr. SMITH of New Jersey, Mr. DELAHUNT, Mr. HINCHEY, Mr. DEFazio, Ms. NORTON, Mr. BLUMENAUER, Mr. ANDREWS, Mr. HILLIARD, Mr. FALEOMAVAEGA, Mr. MINGE, Mr. FATTAH, Mr. DOYLE, Mr. LEWIS of Georgia, Ms. KILPATRICK, Mr. OBERSTAR, Mr. LOBIONDO, Mr. KUCINICH, Mr. EVANS, Mr. CLAY, Mr. WATT of North Carolina, Ms. PELOSI, Ms. ROYBAL-ALLARD, Mr. BROWN of California, Mr. TOWNS, Ms. HOOLEY of Oregon, Mr. KILDEE, Mr. CARDIN, Mr. BERMAN, Mr. CLYBURN, and Ms. LEE) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To prohibit United States military assistance and arms transfers to foreign governments that are undemocratic,

do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

1       *Be it enacted by the Senate and House of Representa-*  
 2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Code of Conduct on  
 5 Arms Transfers Act of 1999”.

6       **SEC. 2. PURPOSE.**

7       The purpose of this Act is to provide clear policy  
 8 guidelines and congressional responsibility for determining  
 9 the eligibility of foreign governments to be considered for  
 10 United States military assistance and arms transfers.

11       **SEC. 3. PROHIBITION OF UNITED STATES MILITARY**  
 12                       **ASSISTANCE AND ARMS TRANSFERS TO**  
 13                       **CERTAIN FOREIGN GOVERNMENTS.**

14       (a) PROHIBITION.—Except as provided in subsections  
 15 (b) and (c), United States military assistance and arms  
 16 transfers may not be provided to a foreign government for  
 17 any fiscal year beginning after the date of the enactment  
 18 of this Act unless the President certifies to Congress for  
 19 that fiscal year that such government meets the following  
 20 requirements:

21               (1)       PROMOTES       DEMOCRACY.—Such  
 22       government—

1 (A) was chosen by and permits free and  
2 fair elections;

3 (B) promotes civilian control of the mili-  
4 tary and security forces and has civilian institu-  
5 tions controlling the policy, operation, and  
6 spending of all law enforcement and security in-  
7 stitutions, as well as the armed forces;

8 (C) promotes the rule of law, equality be-  
9 fore the law, and respect for individual and mi-  
10 nority rights, including freedom to speak, pub-  
11 lish, associate, and organize; and

12 (D) promotes the strengthening of polit-  
13 ical, legislative, and civil institutions of democ-  
14 racy, as well as autonomous institutions to  
15 monitor the conduct of public officials and to  
16 combat corruption.

17 (2) RESPECTS HUMAN RIGHTS.—Such  
18 government—

19 (A) does not engage in gross violations of  
20 internationally recognized human rights,  
21 including—

22 (i) extrajudicial or arbitrary  
23 executions;

24 (ii) disappearances;

25 (iii) torture or severe mistreatment;

1 (iv) prolonged arbitrary imprisonment;

2 (v) systematic official discrimination  
3 on the basis of race, ethnicity, religion,  
4 gender, national origin, or political affili-  
5 ation; and

6 (vi) grave breaches of international  
7 laws of war or equivalent violations of the  
8 laws of war in internal conflicts;

9 (B) vigorously investigates, disciplines, and  
10 prosecutes those responsible for gross violations  
11 of internationally recognized human rights;

12 (C) permits access on a regular basis to  
13 political prisoners by international humani-  
14 tarian organizations such as the International  
15 Committee of the Red Cross;

16 (D) promotes the independence of the judi-  
17 ciary and other official bodies that oversee the  
18 protection of human rights;

19 (E) does not impede the free functioning of  
20 domestic and international human rights orga-  
21 nizations; and

22 (F) provides access on a regular basis to  
23 humanitarian organizations in situations of con-  
24 flict or famine.

1           (3) NOT ENGAGED IN CERTAIN ACTS OF ARMED  
2       AGGRESSION.—Such government is not currently en-  
3       gaged in acts of armed aggression in violation of  
4       international law.

5           (4) FULL PARTICIPATION IN UNITED NATIONS  
6       REGISTER OF CONVENTIONAL ARMS.—Such govern-  
7       ment is fully participating in the United Nations  
8       Register of Conventional Arms.

9       (b) REQUIREMENT FOR CONTINUING COMPLI-  
10    ANCE.—Any certification with respect to a foreign govern-  
11    ment for a fiscal year under subsection (a) shall cease to  
12    be effective for that fiscal year if the President certifies  
13    to Congress that such government has not continued to  
14    comply with the requirements contained in paragraphs (1)  
15    through (4) of such subsection.

16       (c) EXEMPTIONS.—

17           (1) IN GENERAL.—The prohibition contained in  
18       subsection (a) shall not apply with respect to a for-  
19       eign government for a fiscal year if—

20               (A) subject to paragraph (2), the President  
21       submits a request for an exemption to Congress  
22       containing a determination that it is in the na-  
23       tional security interest of the United States to  
24       provide military assistance and arms transfers  
25       to such government; or

1 (B) the President determines that an  
2 emergency exists under which it is vital to the  
3 interest of the United States to provide military  
4 assistance and arms transfers to such govern-  
5 ment.

6 (2) DISAPPROVAL.—A request for an exemption  
7 to provide military assistance and arms transfers to  
8 a foreign government shall not take effect, or shall  
9 cease to be effective, if a law is enacted disapproving  
10 such request.

11 (d) NOTIFICATIONS TO CONGRESS.—

12 (1) IN GENERAL.—The President shall submit  
13 to Congress initial certifications under subsection (a)  
14 and requests for exemptions under subsection  
15 (c)(1)(A) in conjunction with the submission of the  
16 annual congressional presentation documents for for-  
17 eign assistance programs for a fiscal year and shall,  
18 where appropriate, submit additional or amended  
19 certifications and requests for exemptions at any  
20 time thereafter in the fiscal year.

21 (2) DETERMINATION WITH RESPECT TO EMER-  
22 GENCY SITUATIONS.—Whenever the President deter-  
23 mines that it would not be contrary to the national  
24 interest to do so, he shall submit to Congress at the  
25 earliest possible date reports containing determina-

1 tions with respect to emergencies under subsection  
 2 (c)(1)(B). Each such report shall contain a descrip-  
 3 tion of—

4 (A) the nature of the emergency;

5 (B) the type of military assistance and  
 6 arms transfers provided to the foreign govern-  
 7 ment; and

8 (C) the cost to the United States of such  
 9 assistance and arms transfers.

10 **SEC. 4. PROMOTING AN INTERNATIONAL ARMS TRANSFERS**  
 11 **REGIME.**

12 (a) INTERNATIONAL COOPERATION.—Prior to the be-  
 13 ginning of each fiscal year, the President shall compile a  
 14 list of countries that do not meet the requirements in sec-  
 15 tion 3(a) and for which the President has not requested  
 16 an exemption under section 3(c). The President shall—

17 (1) notify the governments participating in the  
 18 Wassenaar Arrangement on Export Controls for  
 19 Conventional Arms and Dual Use Goods and Tech-  
 20 nologies, done at Vienna, July 11 and 12, 1996 (in  
 21 this section referred to as the “Wassenaar Arrange-  
 22 ment”), and such other foreign governments as the  
 23 President deems appropriate, that the countries so  
 24 listed are ineligible to receive United States arms  
 25 sales and military assistance under this Act; and

1           (2) request that the countries so notified also  
2       declare the listed countries as ineligible for arms  
3       sales and military assistance.

4       (b) MULTILATERAL EFFORTS.—The President shall  
5       continue and expand efforts through the United Nations  
6       and other international fora, such as the Wassenaar Ar-  
7       rangement, to limit arms transfers worldwide, particularly  
8       transfers to countries that do not meet the criteria estab-  
9       lished in section 3, for the purpose of establishing a per-  
10      manent multilateral regime to govern the transfer of con-  
11      ventional arms.

12      (c) REPORT.—

13           (1) IN GENERAL.—Beginning one year after the  
14      date of enactment of this Act, and annually there-  
15      after, the President shall submit a report to  
16      Congress—

17           (A) describing efforts he has undertaken  
18           during the preceding year to gain international  
19           acceptance of the principles contained in section  
20           3; and

21           (B) evaluating the progress made toward  
22           establishing a multilateral regime to control the  
23           transfer of conventional arms.

24           (2) SUBMISSION OF THE REPORT.—This report  
25      shall be submitted in conjunction with the submis-



1 sion of the annual congressional presentation docu-  
2 ments for foreign assistance programs for a fiscal  
3 year.

4 **SEC. 5. UNITED STATES MILITARY ASSISTANCE AND ARMS**  
5 **TRANSFERS DEFINED.**

6 For purposes of this Act, the terms “United States  
7 military assistance and arms transfers” and “military as-  
8 sistance and arms transfers” mean—

9 (1) assistance under chapter 2 of part II of the  
10 Foreign Assistance Act of 1961 (relating to military  
11 assistance), including the transfer of excess defense  
12 articles under section 516 of that Act;

13 (2) assistance under chapter 5 of part II of the  
14 Foreign Assistance Act of 1961 (relating to inter-  
15 national military education and training);

16 (3) the transfer of defense articles, defense  
17 services, or design and construction services under  
18 the Arms Export Control Act (excluding any trans-  
19 fer or other assistance under section 23 of such Act  
20 to countries that are specifically identified and ap-  
21 proved for such assistance in law), including defense  
22 articles and defense services licensed or approved for  
23 export under section 38 of that Act; or

24 (4) assistance under sections 2010 and 2011 of  
25 title 10, United States Code, and assistance under

- 1 section 1004 of the National Defense Authorization
- 2 Act for Fiscal Year 1991.

